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FEDERAL ENERGY  
REGULATORY COMMISSION

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

The State of Michigan and ) Docket No. EL01- 76-000  
The Michigan Public Service Commission )  
 )  
v. )  
 )  
Wolverine Power Supply Cooperative, Inc. )

OFFER OF SETTLEMENT  
EXPLANATORY STATEMENT AND MOTION FOR APPROVAL OF  
STIPULATION AND SETTLEMENT AGREEMENT

Pursuant to Rule 602 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 CFR § 385.602, the State of Michigan and Michigan Public Service Commission (collectively "Michigan") and Wolverine Power Supply Cooperative, Inc. ("Wolverine") hereby submit this Stipulation and Settlement Agreement in full and final resolution of all the issues arising out of Michigan's Joint Complaint ("Complaint") filed on May 9, 2001. The terms of the proposed settlement are set forth in the Stipulation and Settlement Agreement attached hereto and are summarized in the Explanatory Statement contained herein. A draft order approving the Stipulation and Settlement is attached. Pursuant to Rule 602(f)(2), the date for filing initial comments on the Stipulation and Settlement Agreement is September 2, 2002, and the date for filing reply comments is September 12, 2002.

I. Procedural Background

On May 9, 2001, Michigan filed a complaint against Wolverine alleging that Wolverine's statements in Docket No. ER01-1815 and in Wolverine's annual report indicated that the company was over-earning its allowed jurisdictional revenues in contravention of the Federal Power Act's just and reasonable rate requirement. On May 24, 2001 the Commission extended

the time for the filing of answers to June 28, 2001. On June 28, 2001, Wolverine filed an answer to the complaint arguing that its rates for requirements service to its five distribution cooperative members are just and reasonable and reflect the cost to serve those members.

On June 14, 2002, the Commission issued an order establishing an evidentiary hearing but holding the hearing in abeyance pending settlement judge procedures. Wolverine's request for rehearing, filed on July 12, 2002, is currently pending. The instant Stipulation and Settlement Agreement is the product of parties' negotiations and is being filed as a resolution of the issues pending in this docket.

## **II. Explanatory Statement**

The provisions of the four (4) articles of the Stipulation and Settlement Agreement offered in settlement of the above-described proceeding are summarized below:

ARTICLE I describes the factual and procedural history of the proceeding resolved by the Settlement.

ARTICLE II establishes the commitments of both Wolverine and Michigan under this Settlement. These commitments include the obligation of Wolverine: 1) to fund certain specified substations and transformer/regulator upgrades and installation projects in 2002 and 2003 for its member cooperatives Cherryland, Great Lakes, Tri-County, and Presque Isle; (2) to refrain from seeking an effective date for a rate change to recover such investment in these projects prior to the effective date of the complete cost of service rate case referenced in item 4 below; 3) to file semi-annual reports with the Michigan Public Service Commission regarding these projects beginning January 1, 2003; 4) to file a complete cost of service rate case and revenue study with the FERC effective no later than January 1, 2004; and 5) to flow through to its members any material reduction in network transmission costs effectively less than \$0.98/kW/month as a result

of a Commission order relating to Dockets EC02-23-000 or ER02-320-000 and effective prior to the effective date of Wolverine's complete cost of service rate case . Michigan commits to refrain from filing or initiating (or assisting another in filing or initiating) before any federal or state authority any complaint or challenge to Wolverine's existing rates or to Wolverine's member cooperatives' existing rates prior to Wolverine's complete cost of service rate case filing at the FERC.

ARTICLE III established the fact that parties agree that this Settlement is an integrated package with terms that are not severable.

ARTICLE IV identifies the limitations of the Settlement, restricts the Settlements' application to the specific issues contained therein and indicates that no precedential value can be attributed to the actions of either party to this Settlement.

### **III. Motion for Approval**

The Stipulation and Settlement Agreement filed herewith is the result of extensive negotiations between Michigan and Wolverine. As explained herein, this Stipulation and Settlement Agreement represents a resolution of all issues in this proceeding, which is in the public interest. Michigan and Wolverine, therefore, respectfully request that the Commission


approve the Stipulation and Settlement Agreement without condition or modification at the earliest possible date.

Respectfully submitted on behalf of:

**STATE OF MICHIGAN and  
MICHIGAN PUBLIC SERVICE  
COMMISSION**

Jennifer M. Granholm  
Attorney General of the State of Michigan

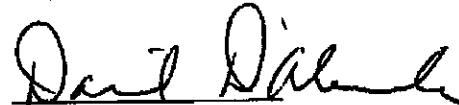
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Their Counsel

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing document by first class mail upon each party on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 16<sup>th</sup> day of August 2002.

  
David D'Alessandro

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

The State of Michigan and  
The Michigan Public Service Commission

v.

Wolverine Power Supply Cooperative, Inc.

Docket No. EL01-76-000

**STIPULATION AND SETTLEMENT AGREEMENT**

Pursuant to Rule 602 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 CFR § 385.602, the State of Michigan and Michigan Public Service Commission (hereinafter "Michigan") and Wolverine Power Supply Cooperative, Inc. (hereinafter "Wolverine") hereby submit this Stipulation and Settlement Agreement (hereinafter "Settlement") in full and final resolution of all the issues arising out of Michigan's Joint Complaint (hereinafter "Complaint") filed on May 9, 2001.

**ARTICLE I**

**Background**

1.1 On May 9, 2001, Michigan filed its Complaint pursuant to Section 206 of the Federal Power Act, 16 USC 824e, requesting that the Commission investigate and determine a just and reasonable level of wholesale rates for Wolverine.

1.2 On June 28, 2001, Wolverine filed an Answer to the Complaint, accompanied by supporting affidavits and letters of support for the current rate structure from the cooperative member-owners of Wolverine. In its Answer, Wolverine denied all the allegations of the Complaint that Wolverine's rate of return is excessive or that its rates are otherwise too high.

1.3 By Order dated June 14, 2002, the Commission set the Complaint for hearing, and held such hearing in abeyance pending settlement judge procedures.

## ARTICLE II

2.1 Michigan and Wolverine have engaged in discussions in an effort to resolve the issues in dispute. In order to resolve this Complaint, the Parties have committed to take the following actions.

2.2 Using internally generated general funds, Wolverine agrees to fund substations and transformer/regulator upgrades and installations of at least \$750,000 in 2002 and at least \$750,000 in 2003, for a total of at least \$1.5 million for its member cooperatives Cherryland, Great Lakes, Tri-County, and Presque Isle as described in paragraph 2.3 below. Each upgrade and/or installation, including material and installation costs associated with the transformer and regulator, is estimated by Wolverine to cost \$187,000 per location per year.

2.3 The description and projected schedule for these transformer/regulator upgrade and installation projects are as follows:

Member System	2002	2003
Cherryland	Interlochen substation transformer and low-side upgrade	Traverse City West installation
Great Lakes	Resort (Petoskey) substation	Wayland substation transformer upgrade
Tri-County	Canadian Lakes substation	Weidman substation transformer upgrade
Presque Isle	Cheboygan transformer upgrade	Hammond Bay substation transformer upgrade

2.4 Wolverine agrees that these projects are to be financed entirely by Wolverine or its successor entity(ies) through internally generated cash flow. Wolverine agrees that it will not seek an effective date for a change of rate to recover Wolverine's investment in these projects prior to the requested effective date of the complete Federal Energy Regulatory Commission rate case referenced in paragraph 2.6 below.

2.5 Wolverine agrees that it will file semi-annual reports regarding these projects with the Michigan Public Service Commission, beginning January 1, 2003.

2.6 Wolverine agrees to file a complete Federal Energy Regulatory Commission rate case, including a full cost-of-service and revenue study, based on the most recent calendar year for which the full complement of data is available. The requested effective date of the updated cost-of-service-based tariff<sup>1</sup> should be same as the date the 9.76 mills per kWh debt restructuring payments associated with the Fermi II debt obligation end, and in any event the requested effective date shall be no later than January 1, 2004. If the filed rate is higher than the rate determined by the Commission to be just and reasonable, then Wolverine agrees to provide refunds with interest for a period that begins with the effective date of the proposed updated cost-of-service based tariff.

2.7 On July 5, 2002, in Docket No. ER02-1422-000 et. al., the Commission conditionally approved a stated network rate of \$0.98/kW/month for load sinking within the Michigan Electric Transmission Company ("METC") pricing zone and taking service under the Midwest Independent System Operator, Inc. (Midwest ISO) Joint Open Access Transmission Tariff ("JOATT"). See *Midwest Independent Transmission System Operator, Inc.*, 100 FERC ¶ 61,046 (2002). The Midwest ISO based its rate on the Commission's approval of the stated

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<sup>1</sup> This refers to Wolverine's current First Revised Rate Schedule FERC No. 4, including Schedule A and all riders.

network rate in Docket Nos. EC02-22-000 and ER02-320-000 on February 13, 2002. See *Trans-Elect, Inc.*, 98 FERC ¶ 61,142, reh'g denied, 98 FERC ¶ 61,368 (2002). Wolverine, whose load sinks within the METC pricing zone, anticipates the change in rate design from a load-ratio to a stated network rate will result in materially higher charges to Wolverine for network transmission service. Wolverine agrees that, if the Commission issues an order in these Midwest ISO or Trans-Elect dockets that materially reduce the effective network transmission rate to Wolverine to less than the \$0.98/kW/month stated rate, then Wolverine will file a change in Wolverine's rates to flow through to its members the reduced network transmission cost to Wolverine. The flow through will be effective beginning with the effective date of the effective network rate reduction to Wolverine and will end with the requested effective date of the complete Federal Energy Regulatory Commission Wolverine rate case referenced in paragraph 2.6 above.

2.8 Michigan agrees that it will not file or initiate (or assist another in filing or initiating) before any federal or state authority any complaint or challenge to Wolverine's existing rates or to Wolverine member cooperative existing rates prior to the date Wolverine files a change to its rates pursuant to section 2.6 above.

### ARTICLE 3

3.1 This Settlement embodies an integrated package. None of the terms of the Settlement is agreed to without each of the others. The various provisions of this Settlement are not severable, and any Commission order severing any provision for separate hearing, technical conference or resolution shall be considered a modification of the Settlement.



#### ARTICLE IV

4.1 Except as expressly provided in this Settlement, nothing in the Settlement shall affect any of the terms or conditions of Wolverine's Tariffs.

4.2 The provisions of this Settlement are intended to relate only to the specific matters addressed herein. No party waives any claim or right that it may have with respect to matters not expressly addressed in the Settlement.

4.3 Neither Michigan nor any other party shall be bound or prejudiced by any part of this Settlement unless it is approved and made effective.

4.4 This Settlement is made upon the express understanding that it constitutes a negotiated settlement of the issues in the subject proceeding. Neither Wolverine, Michigan, nor the Commission shall be deemed to have approved, accepted, agreed or otherwise consented to any issue or principle in these proceedings or to any other factor or concept underlying or supposed to underlie any of the matters herein, or to have prejudiced positions taken or that may be taken in any other proceedings, except as expressly provided in the Settlement. Nothing herein shall be deemed a "settled practice" as the Court interpreted that term in *Public Service Comm'n of New York v FERC*, 642 F.2d 1335 (DC Cir 1980).

4.5 The titles and headings of the various Articles of this Settlement are for reference and convenience purposes only. They are not to be construed or taken into account in interpreting the Settlement and do not qualify, modify, or explain the effects of the Settlement.

4.6 This Settlement is submitted pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR § 385.602 (2000). Unless and until the Settlement becomes effective pursuant to its terms, the Settlement shall be privileged and of no effect and shall not be admissible in evidence or in any way described or discussed in any proceeding before any court.

or regulatory body (except for comments filed with the Commission directly on the Settlement in this proceeding).

4.7 This Settlement constitutes the full and complete agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, and agreements, whether written or oral, between the parties with respect to the subject matter hereof, and there are no warranties or representations among the parties in connection with the subject matter hereof except as set forth specifically herein.

MICHIGAN PUBLIC SERVICE  
COMMISSION and  
STATE OF MICHIGAN

WOLVERINE POWER SUPPLY  
COOPERATIVE, INC.

By: David D. Miller  
Its: Attorney  
Dated: 8/16/02

By: Thomas W. Stevens  
Its: President & CEO  
Dated: 7/30/02

**DRAFT**

**FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426**

In Reply Refer to  
Docket No. EL01-76-000

David D'Alessandro  
Attorney on behalf of the State of Michigan and  
Michigan Public Service Commission  
Stinson Morrison Hecker LLP  
1150 18<sup>th</sup> Street, NW Suite 800  
Washington, DC 20036

Dear Mr. D'Alessandro:

1. On August 19, 2002, the State of Michigan and Michigan Public Service Commission ("Michigan") filed an offer of settlement in the form of a Stipulation and Settlement Agreement in the above-referenced docket. The Commission finds that the Stipulation and Settlement Agreement represents a reasonable resolution of the issues and is in the public interest. Accordingly, it is accepted and approved.
2. The Stipulation and Settlement Agreement constitutes a full and final resolution of all of the issues set for hearing by the Commission in Docket No. EL01-76-000.
3. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principal or issue in this proceeding.
4. By direction of the Commission.

Secretary

cc: All Parties